

# **DUCHESNE COUNTY**

## **PLANNING COMMISSION MEETING**

### **AUGUST 3, 2016**

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<b>REQUEST TYPE:</b>	Conditional Use Permit
<b>APPLICANT:</b>	Whit Beal
<b>PROPOSAL:</b>	Motor Vehicle Sales
<b>LOCATION:</b>	13434 West 250 North (Lots 9 & 10 of the Lone Pine Ranch Estates Subdivision) located just west of the Big Sand Wash Reservoir
<b>ZONING DESIGNATION:</b>	A-5 (R-1)

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## **FINDINGS OF FACT**

### **1. PROPOSAL DESCRIPTION**

The applicant is seeking approval to operate a motor vehicle sales business at his residence. The property is zoned A-5, which is an agricultural zone with a five-acre minimum lot size; however if the property has a culinary water connection, it is considered to be zoned R-1. The Duchesne County Zoning Ordinance includes the following provisions for Home Occupations:

**Home Occupation:** An accessory use consisting of a vocational activity conducted inside a dwelling unit, conducted by the individuals who reside therein, with up to five FTE of non-resident employment (provided adequate on-site parking is available), provided that the home occupation is clearly subordinate to the use of the parcel for dwelling purposes, does not change the character of the parcel and meets the following standards:

- A. Does not include the outside storage of goods, materials, or equipment. **Findings: The applicant states that the number of vehicles for sale at any one time will not exceed three and they will be stored inside existing garage buildings on the property (unless the vehicle is being actively driven by the owner). If the business grows to where vehicles exceed the capacity of the buildings, the applicant indicates that he will move the business to a location within a nearby city.**
- B. Has signage limited to a non-illuminated, flush wall mounted identification sign two square feet or less in size. **Findings: The applicant has not submitted specific sign plans.**
- C. The following occupations are **allowed by conditional use permit in the R1/2, R-1 and R-2.5 zones** and permitted outright in the other zones: appliance repair, cabinet making, dance instruction to more than two (2) individuals at a time; firearms sales and services, food catering, hair salons, unless limited to two (2) stations, motorized garden tool repair, such as, but not limited to, lawnmowers, chain saws, and leaf blowers, pest control, painting of vehicles, trailers, boats, and like vehicles/vessels, photo developing, real estate or brokerage offices, upholstery and furniture repair, vehicle-related uses such as, but not limited to, the cleaning, dismantling, embellishment, installation, manufacture, **repair or service, sale, lease, or rental, and towing of vehicles** (the dispatching of vehicles such as limousines, taxicabs, and ambulances is allowed as a home business so long as those vehicles need not regularly come into the vicinity of the subject residence), welding, nursing homes, health care, including physicians, psychologists, chiropractors, hypnotics and massage therapists.
- D. Complies with all required Federal and State licensing requirements. **Findings: The applicant will need to comply with all state licensing requirements for motor vehicle dealers.**

## **2. HISTORY OF EVENTS**

July 13, 2016	The application was submitted.
July 13, 2016	The application was deemed complete.
July 18, 2016	Notice mailed to property owners within 300 feet of the subject property.
July 19 & 26, 2016	Notice of Public Hearing published in the Uintah Basin Standard
August 3, 2016	Planning Commission hearing.

## **3. DUCHESNE COUNTY ZONING CODE**

### **8-13-1: SCOPE AND PURPOSE:**

- A. Issuance: Conditional use permits may be issued as provided by this title for any of the uses for which a conditional use permit is required as identified in the table of uses and the table of site development standards, as set forth in Chapter 6 of this title.
- B. Purpose: The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.
- C. Conditions: A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed land use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use permit may be denied.

### **8-13-2: APPLICATION FOR PERMIT:**

All requests for a conditional use permit shall be made on the application form provided by the county, detailing the nature of the conditional use request. The applicant shall also provide the necessary information identifying the purpose of the conditional use request, and all required information shall be provided to the planning office twenty one (21) days prior to the planning commission meeting. The planning commission is authorized to render a final decision on the issuance of a conditional use permit following the review and receipt of a recommendation from the zoning administrator.

### **8-13-3: PUBLIC HEARING REQUIRED:**

All applications for a conditional use permit shall be made in accordance with the provisions of this title, and shall be the subject of a public hearing held before the planning commission for which a minimum of fourteen (14) days' public notice has been provided and the planning staff notifying all property owners by U.S. mail within three hundred feet (300') of the proposed conditional use.

#### **8-13-4: FINDINGS AND CONDITIONS FOR APPROVAL:**

A. Findings Required: The planning commission may grant a conditional use permit in compliance with this title if, from the application and the facts presented at the public hearing, it finds:

1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.

**Findings: The proposed use has the potential to be detrimental to other property owners and the public health, safety and general welfare if conditions are not imposed to maintain the residential character of the business site.**

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

**Findings: The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential and agricultural interests. The plan indicates that the county wishes to encourage business activity and support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. In light of these plan policies, the Conditional Use request should be approved to provide a site for a new business, provided that conditions of approval are imposed to protect rural residential interests in the area.**

**The purposes of the Zoning Ordinance are set forth below:**

#### **8-1-2: PURPOSE:**

A. The purpose of this title is to implement the goals and policies of the county general plan. This title contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of the county by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources. It is the intent of this title to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

B. These purposes are met by:

1. Providing the means of implementing the various policies and other provisions of the county general plan;
2. Generally directing and guiding land development so more intense development is located in areas of the county having the necessary services and facilities sufficient to meet the demands of the proposed development;

3. Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;
4. Protecting landowners from potential adverse impacts from adjoining uses; and
5. Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity.

**Findings: If the applicant meets the Conditional Use permit criteria and complies with the conditions of approval, the purposes of the Zoning Ordinance will be met.**

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

**Findings: The subject property consists of two lots, with a total of 12.78 acres of land. The property contains an existing home with an 816 square foot detached wood frame garage and a 600 square foot detached metal building in which vehicles associated with the business will be stored. The property is large enough to operate the proposed vehicle sales business with no significant impact on surrounding properties. The nearest homes are located about 780 feet to the southeast [Kennedy], 830 feet to the north [Evans] and 920 feet southwest [McDonald] of the shop building.**

**B. Conditions:**

1. In approving a conditional use permit, the planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of the county general plan and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. Minimum conditions shall be included for produced water disposal facilities, extraction of earth products and residential treatment or secure treatment facilities as indicated in section 8-13-5 of this chapter.
2. When approving a conditional use permit, the planning commission may impose such requirements and conditions as follows: location, construction, maintenance, odor control, operation, site planning, traffic control, dust control, noise, time limits and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

**8-13-5-5: ADDITIONAL CONDITIONS SPECIFIED:**

These conditions may include:

- A. Landscaping, Design: That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.

**Findings:** The property contains several trees and landscaped areas as shown on the site photos submitted. Activity associated with the business will be at the house, which is set back over 400 feet from the access road (250 North). Based on those considerations and the applicant's commitment to keep vehicles inside an enclosed building, no additional fencing, walls or landscaping should be required.

- B. Parking: Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.

**Findings:** Site photos show that there is ample parking for customer vehicles near the home, where vehicles will be available to view. Ingress and egress is available via a single lane driveway; however, site photos show sufficient level area along the driveway in the event that two vehicles need to pass, going opposite directions. The driveway areas appear to have a sufficient surface for all weather use.

- C. Streets, Water, Sewer, Fire Protection: The provision of required street and highway dedication and improvements, and adequate water supply, sewage disposal and fire protection. **Findings:**

**Roads:** The property receives access to State Highway 87 via 250 North [County Road #135] which is paved to a width of 25 feet (which meets the standard for two travel lanes). The Lone Pine Ranch Estates subdivision plat dedicated 50 feet of road right of way for public use. There are no plans for acquiring additional right of way identified at this location. This road is sufficient to handle the small amount of additional traffic associated with the proposed business.

**Water:** The property receives water from the Upper Country Water District. The proposed business will have a very minimal impact on water usage at the property.

**Sewer:** The property has an onsite wastewater disposal system. The proposed business will have a very minimal impact on the amount of sewer generated at the property. Business customers would use restroom facilities, if necessary, in the existing home.

**Fire:** The detached wood frame garage needs no additional work to ensure that it meets building and fire codes for storage of vehicles. The detached metal building was apparently moved onto the property without a building permit or submittal of engineered plans to the county. The building department was thus unable to determine if this building is in compliance with building and fire codes.

- D. Signs: Regulation of signs.

**Findings:** If the applicant installs signage, it should be limited in size to preserve residential character. If a sign were installed on the west side of Highway 87, it would need to be on the applicant's property and be located to avoid creating a vision clearance hazard at the intersection with 250 North. A sign visible from the highway or at the driveway entrance should not exceed 32 square feet in size, be non-illuminated

**and comply with all other county sign regulations in Section 8-9-14 of the county zoning ordinance.**

- E. Nuisances: The mitigation of nuisance factors, such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.

**Findings: This small scale vehicle sales business is not anticipated to generate significant amounts of noise or dust. The Duchesne County Nuisance Ordinance allows noise from motor vehicles between the hours of 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays and 9:00 A.M. to 9:30 P.M. on Sundays. Conditions should be considered to ensure that vehicle noise, which could disturb surrounding residents, does not occur earlier or later than these allowed times.**

- F. Operating Hours: The regulation of operating hours for activities affecting normal schedules and functions.

**Findings: The applicant states that normal business hours are from 9:00 AM to 5:00 PM. Such hours are within the guidelines of the Nuisance Ordinance for the generation of noise.**

#### **8-13-6: TERM OF PERMIT:**

Unless there is substantial action under a conditional use permit within a period of eighteen (18) months of its issuance, the permit shall be considered null and void.

#### **8-13-7: REVOCATION OR MODIFICATION OF PERMIT:**

A. Authority: If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall hold a public hearing on the question of modification or revocation of a conditional use permit granted under the terms and the provisions of this title.

B. Conditions: A conditional use permit may be modified or revoked if the planning commission finds that one or more of the following conditions exist:

1. The conditional use permit was obtained in a fraudulent manner.
2. The use for which the conditional use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the conditional use permit have not been met.

C. Modification by Planning Commission: Additionally, the conditions under which a conditional use permit was originally approved may be modified by the planning commission without the consent of the property owner or operator, if the planning commission finds that the use or related development constitutes or is creating a demonstrated nuisance. Should

reclamation be necessary, complete restoration, to such an extent that the area will not depreciate the surrounding property or impair the beauty of the landscape, shall be accomplished within a twelve (12) month time frame.

### **CONCLUSIONS**

1. The request will comply with the Conditional Use Permit requirements of the Duchesne County Zoning Code, provided that conditions are imposed.
2. The request is valid.

### **RECOMMENDATION**

Recommended Motion: I move that the Planning Commission approve the Conditional Use Permit requested by Whit Beal, subject to the following conditions:

1. Before opening for business:
  - A. The applicant shall demonstrate compliance with Utah DMV regulations for the operation of a vehicle sales business.
  - B. The applicant shall obtain a county business license.
2. Signage needed to direct customers to the business shall be located on the applicant's property and be located to avoid creating a vision clearance hazard at the intersections of Highway 87 with 250 North and 250 North and the applicant's driveway. A sign visible from the highway or at the driveway entrance shall not exceed 32 square feet in size, be non-illuminated and shall comply with all other county sign regulations in Section 8-9-14 of the county zoning ordinance.
3. Motor vehicle noise on the property, associated with the business, shall be limited, to the hours between 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays and 9:00 A.M. to 9:30 P.M. on Sundays.
4. All vehicles offered for sale on the premises shall be stored within an enclosed building when not being viewed by a prospective purchaser (unless said vehicle is being actively driven by the owner). If the business grows to a point where outdoor storage of vehicles is necessary, such storage shall be screened from the view of surrounding residents or the business relocated to a commercial setting.